



PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :SUHY ET AL.

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Serial No. :09/441,289

Examiner : HEWITT, ET AL.

Filed : 11/16/99

Paper No. : 10

For :APPARATUS AND METHOD FOR TRACKING AND
MANAGING PHYSICAL ASSETS

RECEIVED

Attorney Docket No. :65678-0003 (1-21739)

JUL 02 2001

Technology Center 2100

DECLARATION UNDER RULE 1.132

My name is A. Calvin Axtell, Jr., and I am the president of IronRhino, Inc. I have personal knowledge of the facts contained herein. I have over sixteen years of service as a senior executive and product group manager for Dana Commercial Credit, the parent of IronRhino I am familiar with the above-identified patent application, as well as the development of the IronRhino system that embodies the currently pending claims of the application.

The IronRhinoTM application, which is the subject matter of the above-identified application, was launched on May 8, 2000 as the first fully web based asset management system and has generated very positive feedback since then. The June 2000 issue of Material Handling Wholesaler included an article by Garry Bartecki, written shortly after attending a demonstration of IronRhino's asset management system. A copy of his article is attached, as Exhibit A. Mr. Bartecki is the Director of Dealer/Distribution Services for BDO Seidman, the sixth largest accounting firm in the world. Mr. Bartecki explicitly noted that "another big topic of conversation concerning IronRhino. He goes on to state as follows:

Here it is folks, an independent e-commerce venture (well-funded by the way) that will provide lift truck information for new and used equipment. It will also provide for parts procurement, rental scheduling, fleet

management services, and all sorts of financial options. Heck they have even provided for re-rent inventory that members can use. They are scheduled to go live on May 8th. Make sure you look them up. It is veeerrry interesting. . . The bottom line here folks. . . is that IronRhino.com is heavy-duty stuff.

Mr. Bartecki also mentions IronRhino in a different article attached as Exhibit B from Construction Equipment Distribution in which he comments on IronRhino.com as being an industry portal that covers all the bases for the material handling industry.

Attached as Exhibit C is an Access Log for Ironrhino.com. It shows that between April 29, 2000 and May 31, 2000 the site was already averaging 93.88 different users per day with over 10,000 average hits to the site per day. Currently, the site is used for the asset management of 3,000 pieces of equipment and over 60,000 repair and maintenance records.

Hull Lift Truck in Elkhart, IN was the first independent equipment dealer to sign up for the IronRhino pilot program and it is extremely excited about the features of IronRhino. These features include the ability to obtain information automatically collected from a local controller in at least periodic contact with a data acquisition device that senses at least one operating characteristic of the forklift, wherein the data is analyzed by an analysis controller at a second location, and wherein Hull Lifttruck is able to manage all aspects of its fleet using IronRhino, via the Internet. Hull Lift Truck is excited to be able to not only track its rental fleet assets but also schedule maintenance and generate asset maintenance and usage reports for its customers. Moreover, Hull Lifttruck appreciates the ability to keep track of warranty information associated with an asset. The system is configured to use acquired data to automatically determine which of the parties has the responsibility for the maintenance performed on the forklift.

IronRhino is currently completing ongoing negotiations to provide the use of its system to Hyster Company. Hyster Company is one of the largest forklift manufacturers in the world with approximately a 14% U.S. market share. Hyster is interested in using IronRhino to manage its national account fleets as well as a tool for its dealers to use.

Similar negotiations involve Yale Materials Handling Corporation. Yale has a 15% market share in the United States. Warren Eck, Vice President, Yale Fleet and Yale Financial Services, informed us that our system will allow Yale to provide consistent data delivery and reporting to Yale's national account customers. Don Chance, President of Yale Materials Handling Corporation, told us that he was including the abilities of the IronRhino system capabilities as part of Yale's presentations to its own potential customers.

ICM President, Gary Bagley, recently agreed to a pilot program to use IronRhino after a very impressive demo. He described the system as a fantastic asset management tool with capabilities far above ICM's current system. He was especially excited about the preventative maintenance and warranty tracking aspects of the system discussed above.

Most recently, IronRhino was exhibited at the MHEDA (Material Handling Equipment Distributors Association) Conference on April 30, 2001 and the attendees echoed the praise of IronRhino customers. We heard comments ranging from "It's about time someone did this" to "This will revolutionize the industry."

At the MHEDA convention, Garry Bartecki said publicly that he would encourage his clients to use the IronRhino system so that they could better understand their fleet and know when to replace equipment. Mr. Bartecki also requested that one of my staff members write an article for "Equipment Today" magazine, detailing what IronRhino does, how to gain access to the system, and provide further information on desirable features of the system as already noted above. An advance copy of an article by Mr. Bartecki scheduled to appear in the June version of "Equipment Today" is attached as Exhibit D.

Until the development of the IronRhino system, the gathering, analyzing, and delivering of information relating to the procurement and utilization of a multiple asset types, such as fork lifts, was a difficult and impractical task. With the IronRhino software

and system, equipment owners and managers can now maximize productivity and reduce the operating costs and administrative burdens associated with such assets.

Instead, as noted in the background of the invention, the operation of these types of assets have been considered somewhat ancillary to the core nature of the business using them. Thus, although the use of these assets is necessary, the ownership, operation, and maintenance of them is not a core function of the business. As a result, the costs associated with the procurement and utilization of assets such as forklifts has not been monitored or analyzed. Instead, the costs have been considered as relatively fixed costs of doing business.

In my opinion, the positive press and marketplace response that IronRhino is receiving is related to the development of our inventive system wherein a data acquisition device is used for sensing at least one operating characteristic of the asset and for generating acquired data that is representative thereof and wherein the characteristic is transmitted on at least a periodic basis to a local controller to update the software. In turn, the local controller transmits the information to an analysis controller at a second location remote from the local controller, and wherein the analysis controller generates an analysis of acquired data from a plurality of local controllers. We have found that our clients prefer to minimize the equipment required at their local location and we prefer to have the ability to analyze the data at a central location.

The information we collect can be used at an asset level to determine if maintenance is required for that asset and if it has been timely performed. Further, however, the information can be combined for similar groups of assets to determine long-term trends that can be evaluated to more pro-actively avoid problems. As an incentive to reducing operating costs, the system is able to determine the party responsible for maintaining an asset at different stages, which is of particular benefit when warranty issues are involved.

In my opinion, the present invention is desirable to manufacturers such as Hyster and Yale since they are provided much better and more timely information concerning customer use of the forklift assets Hyster and Yale manufacture. They can confirm that appropriate maintenance has been provided by the user of the asset and are provided information to help them provide lower cost preventative maintenance under warranty conditions that avoid higher long-term costs associated with a lack of such preventative maintenance. Based on trends identified from many assets monitored under the present invention, the manufacturers can focus their development attention on refinements that reduce their own warranty exposure over time.

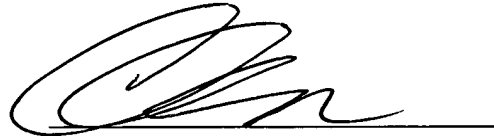
Leasing companies such as Dana Commercial Credit like IronRhino because they are able to keep better track of the assets for which they have ultimate ownership, but lack day-to-day interaction with since they are not the asset users. In fact, with the information provided by IronRhino, leasing companies are able to incentivize their lessees and users of forklifts to properly use and maintain them since this increases the residual value upon ultimate re-sale. It is now possible to penalize users for poor asset maintenance or usage.

Finally, in my opinion end users of forklift assets find IronRhino beneficial because the cost of leasing is reduced through proper maintenance and controlled usage, wherein the savings generated are shared with the end user. The maintenance and usage improvements are possible because of the better and more timely access to asset data that the system provides. Further, end-users have commented to us on the desirability of having manufacturers take more responsibility for warranty issues in a manner that expedites repairs while reducing paperwork. As a result, I am not surprised that Yale has been advertising the capabilities of the system to its own customers.

In short, it is my opinion that the commercial success of IronRhino has resulted from the invention claimed in that the system has characteristics not found in any other system known to me at the time of filing and as discussed above. The success that we have enjoyed is primarily attributable to the quality of the system since no extensive

amount of advertising has been conducted. It has been the industry itself that has been spreading the word on IronRhino. The aspects claimed in the application reflect the features that have provided us with an advantage in the marketplace and our success attests to the fact that we are fulfilling an important need that has not previously been addressed.

All statements made of the undersigned's own knowledge are true and all statements made on information and belief are believed to be true; and the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under 18 U.S.C. § 1001, and such willful false statements may jeopardize the validity of the application or any resulting registration.

A handwritten signature in black ink, appearing to read 'A. Axtell', is written over a horizontal line.

A. Calvin Axtell
President, IronRhino, Inc.

EXHIBIT A

MATERIAL HANDLING WHOLESALER

JUNE 2000

A Specialty Publications, Inc. Magazine www.mhwmag.com \$5

Marketing Matters:

Analyzing the Competition -
Part III - Judo Marketing!

Battery Tech:

Electric Vehicle Developments
Make News

The After Market:

Got a Handle on
the Competition?

Bottom Line:

Wanna Bet?

Last Page:

My Credit Has Gone
to the Dogs

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E-Commerce Double Feature!

Can E-Commerce Work for You?
Making Sense of the Web

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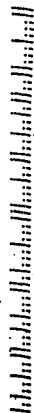
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BOTTOM LINE

GARRY BARTECKI

Wanna Bet?



here sure has been a lot going on, so we have a lot to cover this month.

I have been told over and over that you can't sell lift trucks and related services via e-commerce. My response has always been... Wanna Bet?

I was also told that Citicorp Venture Capital would never pull the plug on Clark...My response to that was also... Wanna Bet?

Needless to say, if both of these scenarios came true, it would cause additional confusion in the marketplace among manufacturers, dealers and customers.

Well, guess what? It's happening!

Now, Clark filing for Chapter 11, closing the Lexington plant at the end of the year and bringing in product from overseas may not be "pulling the plug," but it's pretty close, and I doubt if the reorganized operation will be the same. This will definitely cause defections among the dealer group resulting in fewer dealers with Clark as the main brand.

On the other hand, who knows, Clark may come out of this with minimum downside and wind up stronger in the process. This may just be the incentive certain manufacturers currently not in the States need to buy themselves not only manufacturing capacity, but dealer distribution as well.

If you believe every obstacle or setback is an opportunity in disguise, then I guess the Clark situation is just such an opportunity. At least the reorganization is taking place when the dealers should be in a fairly strong position. This should provide some cushion to make necessary changes.

If I were a Clark dealer, would I panic? No, I don't believe so. I would, however, like to explore my options to see where I might fit in. The only problem they may find is that there are no territories available for other product in their area. What then? One approach is go out and acquire the dealer you need and avoid the legal hassles involved with the manufacturer having to cancel a dealership.

If you are a smaller player, then the option may be to sell to a larger player and make your future big bucks via bonus programs. Heck, based on my experience, Clark dealers are good dealers and would be a welcome addition to any other dealer or dealer group.

As we have discussed before, this business is in the throes of major change. Whether you are a Clark dealer or not, if you don't have the stomach to go through this or are not willing to make the necessary investments to remain competitive, then maybe it is time to move on, anyhow.

I have many friends that sell the Clark brand. I wish them well and hope the reorganization works. I also hope they have multiple options in case it doesn't. Guys (and Gals), you know you can call me if you want to explore your options.

Now for the second Wanna Bet?

I recently returned from the MHEDA convention in San Diego. It was a great convention (as usual), and as you would have it, the Clark announcement was made during the convention. Needless to say, this was a major topic of conversation among dealers and manufacturers. If I didn't know better, I'd say Liz Richards planned it that way to make the convention more memorable.

There was, however, another big topic of conversation concerning IronRhino.com. Here it is folks, an independent e-commerce venture (well-funded by the way) that will provide lift truck information for new and used equipment. It will also provide for parts procurement, rental scheduling, fleet management services, and all sorts of financing options. Heck, they have even provided for re-rent

inventory that members can use. They are scheduled to go live on May 8th. Make sure you look them up. It is veeerrrry interesting!

IronRhino.com is geared to dealers, but is really an independent organization in the business of earning a fee from a transaction. They are not controlled by any manufacturer, but have the backing of Dana Commercial Credit. Will it help dealers by making it easier to train sales and other personnel? It should.

But, it will also make competitive information available to customers as well. In other words, customers will be able to comparison shop for every aspect of dealer service and have market data available to do it with. They even have the ability to create a "virtual rental fleet" where they can mix and match equipment to fit their individual needs.

The bottom line here folks...is that IronRhino.com is heavy-duty stuff.

How do I see this rolling out? IronRhino will help dealers identify customers, help get the message out about their products and services, help buy and sell used equipment, help buy and sell parts, have a re-rent fleet available, assist with long-term rental and fleet management models, and provide financing alternatives. Used properly, it will help a lot of dealers step up a notch or two on the sophistication scale.

On the other hand, since this same information is available to customers, I suspect the national accounts will use it to their advantage, and I suspect the larger regional accounts will as well. Eventually, all your customers will have access to this data.

So, I guess you have a choice. You either join the party or you don't. If you believe you have a "unique selling proposition" and that your service levels are top notch, you have nothing to fear. In this day and age, customers buy the "dealer" and not the product, anyhow.

Putting your head in the sand is really not an option. You have to use the tools available to you to be competitive. For a smaller dealer, IronRhino could make you competitive with the bigger players in town. Not a bad result, is it?

After my IronRhino demo, we were talking and I said, "Isn't this going to make the lift truck business more competitive than it is already? Why would a dealer want to do this if he knows that his customers will eventually get competitive information about products and services?" After I said that, I realized it was a silly question, because I realized that if IronRhino didn't do it, someone else would. And, you know what, I even thought of doing portions of it myself, especially the long-term rental and fleet management aspects of the program. I guess it's time to get into the new century, don't you?

And guess what...lift trucks will be sold via e-commerce.

I believe I won both bets. Too bad I didn't have any money on them!

Garry Barteci is a partner with BDO Seidman, working with accounts and consultants. For more information, contact Mr. Barteci at BDO Seidman at (312) 856-9100; 205 North Michigan Avenue, Suite 2100, Chicago, IL 60601

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EXHIBIT B

CONSTRUCTION EQUIPMENT Distribution

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ON THE NUMBERS

E-COMMERCE AND THE EQUIPMENT INDUSTRY

At AED's recent Executive Forum, there was information galore on how to start and improve your e-commerce initiative.

By Garry Bartecki, CPA

Regular readers of this column will note that I believe people, training and technology are the three major issues facing equipment dealers as we move into the 21st century. AED's excellent Executive Forum: e-Business 2000, held in Chicago in September, did nothing to change my mind. In fact, it reinforced my thinking more than anything else.

Our industry is changing. Heck, every industry-especially those in which product is distributed through a dealer network-is changing. The type of people you need, the training they need and the technology required to support the business model is one reason the industry continues to consolidate. It's just going to be tough to compete in the next generation of distribution. Doable? Sure it is, but only for those who run their business and not just let it run by itself.

To help equipment dealers and manufacturers deal with these realities, the Executive Forum covered two topics: e-commerce and recent developments in the industry, including a look at what's happening with the major rental companies. Both topics were adequately covered, and many points were made to help make business decisions related to future planning. Some of these points will require in-depth analysis, and I'll cover those in future columns. This month, let's just review the forum highlights and inspire you to get a handle on your company's e-commerce initiative.

Here are the main points I took away from the forum:

- Information technology (IT) is a very expensive proposition.
- The e-commerce segment of the IT function is not yet fully developed.
- Current accounting methods do little to capture the true cost of the IT function, nor do they provide management with the measurement tools to review results.
- Finding and training good people is still a big problem.
- The industry is rapidly consolidating.
- The next generation of workers will expect to have full IT capability at their beck and call.
- The means to use e-commerce will soon become a commodity.

Wow, that's a lot. I told you it was a great program, and one every CEO should have attended. There are major issues here each one of you is going to be called upon to review and make decisions about.

The main e-commerce message I got from the forum is that the ability to communicate via e-mail is one thing and the ability to effect an e-commerce transaction is something else. Industry panelists indicated that the larger the customer, the more he or she will want to communicate with vendors via e-mail. You also can use e-mail internally to communicate, to assist with the sales process, to assist with the service function, to reduce marketing costs, to promote in-house sales, to provide information and, in general, to provide a higher level of service to both internal and external customers. Not bad. So you should have e-mail capability if you don't already.

Graduating to the next step of developing a company-specific website that can complete a transaction is another matter entirely,

however. Accomplishing this goal can become both expensive and time-consuming, so you want to do right the first time. In addition, there needs to be a leader responsible for this function who will see that the site is updated as necessary.

More than one speaker suggested that dealers not try to develop their own website or re-invent the wheel, because it simply isn't necessary. They predict website-development programs will become such a commodity that you won't have to spend a lot of time or money to create and maintain a site. For example, AED has a service to get you started for a reasonable cost.

In addition, manufacturers should work with dealers to develop an interactive site and share the cost. And sooner or later, an industry portal will appear that will cover all the bases. Check out IronRhino.com, which is a portal for the material handling industry, to see what I mean.

An excellent article appeared in the September issue of this publication titled "The Dos and Don'ts of Gearing up for E-Commerce" by David Saidat. It provides a sensible approach for developing an effective e-commerce program. I suggest you read it.

The bottom line is: Don't rush into an e-commerce initiative. And do it right if you are going to do it at all!

Garry Bartecki (gbartecki@bdo.com) is director of distributor services in the Chicago office of BDO Seidman, an international consulting and accounting firm.

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EXHIBIT C

Access Log for Ironrhino.com

Generated by FastStats 2.73 on July 14, 2000 at 01:28 PM

General Statistics

This report gives you an overview of your web site and contains miscellaneous information.

Value	Item
Hits	344545
Total Data Transferred	0.00 bytes
Total Visiting Users	3098
Time Period	April 29, 2000, 01:00 AM to May 31, 2000, 10:59 AM
Average Hits per User	111.22
Average Users per Day	93.88
Average Data Transferred per Day	0.00 bytes
Hits cached by Client	189202 (54.91%)
Report generated on	July 14, 2000 at 01:28 PM
Incomplete downloads/file requests	58 (0.02%)
Log spans a period of	33 days
Total failed requests	5828 (1.69%)
Unique IP Addresses	878
Average Data Transferred per User	0.00 bytes
Average Hits per Day	10440.76
Average Data Transferred per Hit	0.00 bytes
Each user has visited approximately	3.53 times
Hits on Pages	44301
Hits on Files	22293
Hits on Images	272123

EXHIBIT D

ON THE NUMBERS

ARE YOU READY FOR SMARTER CONSUMERS?

Underestimating the knowledge today's buyers possess could have far-reaching consequences on your dealership's bottom line . . . and future.

By Garry Bartecki, CPA

"An educated consumer is the best customer." An old but true saying. It applies to all forms of business. I often hear dealers complaining about pricing and rental rates. They say their peers don't seem to understand "their cost" and thus give things away. It happens all the time. You would think that the current inventory of computer systems and the like would reduce such activity. But, it doesn't.

We could get into a long dissertation at this point about pricing, volume, the size of dealerships and the like, but we won't. Suffice it to say that these types of issues should get better as industry consolidation takes place and we wind up with bigger, better capitalized dealers. Smaller niche players will not aggravate the problem, because in order to survive, and because they are niche players, they know how to charge and get premium pricing.

Once we assume that the industry will cure its own pricing problems, the next issue to consider is how do we handle our customers' growing intellect? Customers are starting to ask the right questions, forcing dealers to have the right answers.

Financial software is now available to help dealers manage their business and assets. Dealers should no longer expect to have private data at their disposal for their selling proposition. Chances are the contractors will have the same information. And dealers had better get up to speed with this fact, or their customers will find someone else to play with.

Contractor asset management, equipment management or fleet management is vital to their operations. Your customers have to make important decisions relating to these facts of life. And contractors like having a system tell them what assets to own, what assets to rent, what assets to sell and when to sell them. They want help in determining what to keep and what to rent.

Dealers are supposed to help customers make these decisions. To do that, you have to have the information available to help with such fleet management issues. You have to ask yourselves, "Do I have the information available to assist my customers with this process and be able to back it up?"

From my travels, I've learned that contractors are interested in three basic things:

- Upgrading their system for asset or fleet management.
- Unloading unnecessary assets off the balance sheet.
- Determining how to make better use of rent-to-rent situations.

These are three related issues contractors expect a dealer to be conversant in. Dealers who help solve these problems or can offer alternatives have numerous opportunities to pick up new business.

Flipping a coin. Looking into a crystal ball. Using sophisticated computer programs with data collection capability. Contractors use these and other systems to make decisions about equipment. You can bet more are turning to computer programs for such key decisions.

There is a new web-based product that will track fleet activity and be available over the internet for a very reasonable fee. I saw it at the MHEDA convention (material handling and lift truck dealers convention) and found it affordable and useful for every contractor. It also will help dealers educate themselves on how to discuss asset management issues with their customers.

IronRhino's service can be accessed at www.IronRhino.com. It offers data collection, reporting and management related to operating assets. Enter into their database maintenance, service and repair data, along with usage information and your customer gets premium fleet management reports they can use to make financial decisions.

For small contractors the data can be entered manually. Larger contractors can integrate the transfer of data through their computer system.

Customers want this data. They need this data to run their business properly. Dealers can either let them find this source to track equipment cost and usage themselves, or they can offer it as a dealer service so that both the dealer and customer co-operate to make decisions about fleet management. Which side of the equation do you want to be on? ■

Garry Bartecki (gbartecki@bdo.com) is director of distributor services in the Chicago office of BDO Seidman, an international consulting and accounting firm.